

Remarks:

Reconsideration of the application is requested.

Claims 1-13 remain in the application. Claims 1 and 6 have been amended. Claims 7-13 are withdrawn from consideration.

The amendment is being filed in furtherance of the telephone conversation between the Examiner and undersigned counsel on March 28, 2003. The Examiner promised that she would enter the amendment as presented above and that the claims now satisfy the formal requirements under 35 U.S.C. § 112. The Examiner's assistance in this matter is appreciated.

Specific support for the changed language in the claims is found on page 12 of the specification, primarily in the paragraph spanning lines 4 to 16.

Originally, applicants referred to the heated condition of the wafer sheets, as they emerge from the baking oven, as being in "the hot state." Upon receiving a first Office action, in which the Examiner objected to the terminology, that language was changed to "elevated temperature." Based on the premise that "elevated" is but a relative term without a specific definitional reference within the claim, the Examiner still objected. Counsel now presents a third attempt in which language is imported from the specification which, while

utilizing the relative term "warm," provides a definition of the term with reference to the malleability of the wafer sheets. In other words, it is of primary importance in the instant application that the two or more wafer sheets are still malleable so as to enable the shaping by the mold press. This shaping is done, according to the invention of this application, after the baking of the sheets. The malleability -- defined in the application as "sufficient elasticity" to enable shaping -- lies at the heart of the invention. Here, we bake the batter into sheets, we layer the sheets with food product (e.g., chocolate, nuts, etc.), and we shape them into whatever form. Since the batter has a minimum sugar content of 23% (or equivalent trehalose content), the wafer sheets can still be shaped, even after they are baked.

The Examiner is requested to treat this submission not only as a request concerning the formalities of the claims, but also as a request for reconsideration in light of the prior art. The prior art, in fact, does not teach the claimed invention. Should the Examiner have any comments or suggestions, counsel would much appreciate and earnestly consider any such comments or suggestions.

In view of the foregoing, reconsideration and allowance of  
claims 1-6 are solicited.

Respectfully submitted,



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